

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

KERRI NEILL,
Plaintiff,

v.

AMERICAN HONDA MOTOR CO., INC. and
HOME DEPOT U.S.A., INC.
Defendants.

**REMOVED FROM:
RHODE ISLAND SUPERIOR COURT
KENT COUNTY**

NOTICE OF REMOVAL

Defendant Home Depot U.S.A., Inc. (“Home Depot”), by and through its undersigned counsel, hereby files its Notice of Removal of this action (the “Action”) from Superior Court for the State of Rhode Island, Kent County to the United States District Court for the District of Rhode Island.

Home Depot appears for the purpose of removal only and for no other purpose, reserves all defenses and rights available to it, and states as follows:

1. On or about June 2, 2021, Plaintiff Kerri Neill commenced the Action in the Superior Court for the State of Rhode Island, Kent County as civil action number KC-2021-0486. In the Action, Plaintiff alleges to have been injured by a lawnmower purchased from Home Depot in North Kingstown, Rhode Island, when, while removing the lawnmower from her garage after purchasing it and bringing it home, the handle retracted and caused her personal injuries.

2. In particular, Plaintiff claims to have suffered a severed left index finger, which she characterizes as “severe and permanent injuries and disfigurement.”

3. On or about June 9, 2021, Plaintiff served a copy of the Summons and Complaint upon the Registered Agent for Home Depot.

4. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Home Depot in the Action is attached as **Exhibit 1**.

5. Plaintiff is a Rhode Island resident living in Warwick, Rhode Island.

6. Home Depot is a foreign corporation with a principal place of business in Atlanta, Georgia.

7. Plaintiff alleges severe and permanent injuries and disfigurement that, if proven, could result in damages in excess of \$75,000.00.

8. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over the Action, which is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441 *et seq.*, because the amount in controversy exceeds \$75,000, exclusive of interests and costs, and there is complete diversity between the Plaintiff, who is a resident of Rhode Island, and Home Depot, which has its principal place of business in Georgia.

9. Home Depot has not yet filed a pleading in response to the Complaint and no orders have been issued in this Action.

10. Pursuant to 28 U.S.C. § 1446(d), Home Depot promptly will file a copy of this Notice of Removal with the Clerk for the Superior Court for Kent County, and will serve a copy of the same on counsel for Plaintiff and all other counselors of record.

WHEREFORE, Home Depot respectfully removes the Action now pending in the Rhode Island Superior Court, Kent County, as civil action number KC-2021-0486 to the United States District Court for the District of Rhode Island.

Defendant,
HOME DEPOT U.S.A., INC.,
By its Attorneys,

/s/ Stephen D. Nelson
Stephen D. Nelson (#8776)
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903
Tel: 401-274-7200
snelson@apslaw.com

Dated: June 29, 2021

CERTIFICATE OF SERVICE

I hereby certify that this document served on all counsel of record by U.S. Mail on this the 29th day of June, 2021:

Jeffrey D. Sowa, Esq.
Heather M. Spellman, Esq.
LaPlante Sowa Goldman
78 Kenwood Street
Cranston, RI 02907

/s/ Stephen D. Nelson
Stephen D. Nelson

EXHIBIT 1



STATE OF RHODE ISLAND
SUPERIOR COURT
SUMMONS

Plaintiff Kerri Neill v. American Honda Motor Co., Inc. et al. Defendant	Civil Action File Number KC-2021-0486 Attorney for the Plaintiff or the Plaintiff Jeffrey D. Sowa Address of the Plaintiff's Attorney or the Plaintiff LAPLANTE SOWA GOLDMAN 78 KENWOOD STREET CRANSTON RI 02907
Noel Judicial Complex Kent County 222 Quaker Lane Warwick RI 02886 (401) 822-6900	Address of the Defendant 222 Jefferson Boulevard Suite 200 Warwick RI 02888 Corporation Service Company

TO THE DEFENDANT, Home Depot U.S.A., Inc.:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 6/3/2021.

/s/ Danielle Keegan
 Clerk

Witness the seal/watermark of the Superior Court

A true copy attest
 Robert J. Kilduff #6070
 Date 6/9/21



STATE OF RHODE ISLAND
SUPERIOR COURT

Plaintiff

Kerri Neill

v.

American Honda Motor Co., Inc. et al.

Defendant

Civil Action File Number

KC-2021-0486

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Home Depot U.S.A., Inc., by delivering or leaving said papers in the following manner:

☐ With the Defendant personally.

☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person of suitable age and discretion _____

Address of dwelling house or usual place of abode _____

Age _____

Relationship to the Defendant _____

☐ With an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ With a guardian or conservator of the Defendant.

Name of person and designation _____

☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.

☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.

Name of person and designation _____



STATE OF RHODE ISLAND
SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ I was unable to make service after the following reasonable attempts:

SERVICE DATE:

Month Day Year

SERVICE FEE \$

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED

Signature

State of

County of

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____

or ☐ proved to the notary through satisfactory evidence of identification, which was _____

to be the person who signed above in my presence,

and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____

STATE OF RHODE ISLAND
KENT, SC.

SUPERIOR COURT

KERRI NEILL,
Plaintiff,

v.

C.A. No. KC

AMERICAN HONDA MOTOR CO., INC.
and HOME DEPOT U.S.A., INC.,
Defendants.

Complaint

Parties and Jurisdiction

1. Plaintiff, Kerri Neill ("Neill"), was at all times material hereto a resident of the City of Warwick, County of Kent, State of Rhode Island.

2. Upon information, Defendant American Honda Motor Co., Inc. ("Honda"), is a foreign corporation, organized under the laws of California and licensed to do business in the State of Rhode Island, with its principal place of business located in the State of California.

3. Upon information and belief, at all times material hereto, Defendant Home Depot U.S.A., Inc. ("Home Depot") was a Delaware entity with a principal place of business located in the State of Georgia.

4. Honda and Home Depot have sufficient minimum contacts with the State of Rhode Island to be subject to the jurisdiction of this Honorable Court.

5. The amount in controversy and nature of the controversy are sufficient to establish the jurisdiction of this Honorable Court.

Facts

6. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

7. At all times material hereto, Ms. Neill owned a Honda HRR216VKA lawnmower, which was manufactured by Honda (the "Lawnmower").

8. Ms. Neill purchased the Lawnmower from Home Depot located in North Kingstown, Rhode Island.

9. On or about June 21, 2020, Ms. Neill was removing the Lawnmower (while in its properly folded position) from its stored location in her garage when the handle retracted suddenly severing a portion of Ms. Neill's left index finger.

10. The mechanics of the Lawnmower handle were inherently dangerous and unsafe.

11. The Owner's Manual for the Lawnmower contains no warnings or instructions regarding such risks or hazards.

12. The Lawnmower itself contains no warnings regarding risk of such injury.

13. As a direct and proximate result of the defective condition of the Lawnmower and Honda's failure to warn, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT I – Strict Product Liability
(Neill vs. Honda and Home Depot)

13. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

14. Upon information and belief, Honda designed, manufactured, assembled, inspected, tested, distributed and sold the Lawnmower so as to render it defective and unsafe for its intended use.

15. Honda's design, manufacturing, assembling, inspection, distribution and sale of the Lawnmower caused the defective and unsafe condition as alleged herein.

16. Home Depot distributed, merchandised, and sold the Lawnmower.

17. When Ms. Neill sustained the damages described herein, the Lawnmower was in a defective condition and unreasonably dangerous to a user or consumer in that it was unfit, unsafe, not usable for the purpose for which it was intended, dangerous and defective in nature, design, and materials and defective in manufacture.

18. Such conditions were not observable by Ms. Neill who relied on the duties of Honda and Home Depot, to deliver the Lawnmower at the time of sale in a condition that was fit for the use and purpose intended and in a safe and operable condition.

19. Honda and Home Depot's breach of its duty of care caused the defective condition of the Lawnmower and is the proximate cause of Ms. Neill's severe and permanent injuries and disfigurement.

COUNT II – Breach of Implied Warranty of Fitness and/or Merchantability
(Neill vs. Honda)

20. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

21. The Lawnmower manufactured by Honda and sold to Ms. Neill by Honda, was not of merchantable quality. Rather, it was unfit, unsafe, and not usable for the purpose for which it was intended. Such condition constituted a breach of Honda's implied warranty of merchantability and/or fitness, in that the Lawnmower was not fit for the purpose for which it was designed, namely, to be safely stored and moved with its handle properly folded.

22. When purchasing and operating the Lawnmower, Ms. Neill relied upon Honda's skill and judgment and its implied warranty of fitness for the purpose for which she purchased the Lawnmower.

23. The Lawnmower was not fit for its intended purpose and use, and as a result of Honda's breach of its warranty of fitness of the Lawnmower, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT III – Negligence
(Neill vs. Honda)

24. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

25. Honda negligently designed and/or manufactured and/or inspected and/or marketed and/or sold the Lawnmower and negligently placed it into the channels of trade when it knew, or with a reasonable degree of care, should have known that the Lawnmower was dangerous and defective in nature, design and materials, and was in a dangerous and/or defective condition, in a manner in which Honda should reasonably have foreseen would come into use by persons such as Ms. Neill, who was unaware of the dangerous and defective condition, and Honda's failure to use reasonable care to prevent such damages to such persons including Ms. Neill.

26. Honda failed to warn Ms. Neill and other consumers of the potential for the Lawnmower handle to close in a scissor-like manner with the risk of severing fingers before and after offering the same for sale. Such dangerous condition was reasonably foreseeable and knowable to Honda at the time of marketing.

27. Honda's breach of its duties of care in the design, manufacture, inspection and distribution of the Lawnmower, and failure to warn, caused Ms. Neill to sustain severe and permanent injuries and disfigurement.

COUNT IV – Breach of Implied Warranty of Fitness and/or Merchantability
(Neill vs. Home Depot)

28. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

29. Home Depot distributed, merchandised, and sold the Lawnmower.

30. The Lawnmower distributed, merchandised, and sold by Home Depot to Ms. Neill, was not of merchantable quality. Rather, it was unfit, unsafe, and not usable for the purpose for which it was intended. Such condition constituted a breach of Home Depot's implied warranty of merchantability and/or fitness, in that the Lawnmower was not fit for the purpose for which it was designed, namely, to be safely stored and moved with its handle properly folded.

31. When purchasing and operating the Lawnmower, Ms. Neill relied upon Home Depot's skill and judgment and its implied warranty of fitness for the purpose for which she purchased the Lawnmower.

32. The Lawnmower was not fit for its intended purpose and use, and as a result of Home Depot's breach of its warranty of fitness of the Lawnmower, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT V – Negligence
(Neill vs. Home Depot)

33. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

34. Home Depot negligently marketed and/or sold the Lawnmower and negligently placed it into the channels of trade when it knew, or with a reasonable degree of care, should have known that the Lawnmower was dangerous and defective in nature, design and materials, and was in a dangerous and/or defective condition, in a manner in which Home Depot should reasonably have foreseen would come into use by persons such as Ms. Neill, who was unaware of the dangerous and defective condition, and Home Depot's failure to use reasonable care to prevent such damages to such persons including Ms. Neill.

35. Home Depot failed to warn Ms. Neill and other consumers of the potential for the Lawnmower handle to close in a scissor-like manner with the risk of severing fingers before and after offering the Lawnmower for sale. Such dangerous condition was reasonably foreseeable and knowable to Home Depot at the time of marketing and sale.

36. Home Depot's breach of its duties of care in the marketing, distribution, and sale of the Lawnmower, and failure to warn, caused Ms. Neill to sustain severe and permanent injuries and disfigurement.

WHEREFORE, Plaintiff, Kerri Neill, respectfully requests this Honorable Court:

1. Enter judgment in favor of Plaintiff and against Defendant on each and every count contained herein;
2. Award damages to Plaintiff for an amount necessary to invoke the jurisdiction of this Honorable Court;
3. Award Plaintiff interest, costs, expenses, and reasonable attorneys' fees; and
4. Award such other relief, as this Honorable Court deems just and appropriate.

JURY DEMAND

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY AS TO ALL TRIABLE ISSUES OF RIGHT.

Plaintiff,
Kerri Neill,
By her Attorney,

/s/ Jeffrey D. Sowa
Jeffrey D. Sowa, Esq./#5764
Heather M. Spellman, Esq./#6461
LaPlante Sowa Goldman
78 Kenwood Street
Cranston, RI 02907
TEL: (401) 273-0200
FAX: (401) 273-0250
EMAIL: jsowa@lsglaw.com
hspellman@lsglaw.com

Dated: June 2, 2021

STATE OF RHODE ISLAND
KENT, S.C.

SUPERIOR COURT

KERRI NEILL,
Plaintiff,

CA No: KC-2021-0486

v.

AMERICAN HONDA MOTOR CO., INC. and
HOME DEPOT U.S.A., INC.
Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C.A. § 1446(d), Defendant Home Depot U.S.A., Inc., (“Home Depot”), by and through its undersigned counsel, files herewith a true copy of the Notice of Removal previously filed in the United States District Court for the District of Rhode Island, and a true copy of the Notice of Filing of Removal.

Defendant,
HOME DEPOT U.S.A., INC.,
By its Attorneys,

/s/ Stephen D. Nelson
Stephen D. Nelson (#8776)
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903
Tel: 401-274-7200
snelson@apslaw.com

Dated: June 29, 2021

CERTIFICATE OF SERVICE

I hereby certify that this document served on all counsel of record by U.S. Mail on this the 29th day of June, 2021:

Jeffrey D. Sowa, Esq.
Heather M. Spellman, Esq.
LaPlante Sowa Goldman
78 Kenwood Street
Cranston, RI 02907

/s/ Stephen D. Nelson
Stephen D. Nelson

SC DOCKET SHEET**CASE NO. KC-2021-0486**

Kerri Neill
v.
American Honda Motor Co., Inc. et al.

§
§
§
§
§

Location: **Kent County Superior Court**
Filed on: **06/02/2021**
US District Court Case Number: **1:21-CV-00276**

CASE INFORMATION

Statistical Closures
06/29/2021 Closed-Non Trial-Unassigned-Removed to Federal Court

Case Type: **Civil Action**

Case
Status: **06/29/2021 Closed**

Case Flags: **Claim for Jury Trial****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number **KC-2021-0486**
Court **Kent County Superior Court**
Date Assigned **06/02/2021**

PARTY INFORMATION**Plaintiff**

Neill, Kerri

Lead Attorneys







SOWA, JEFFREY D.
Retained
4012730200 x102(W)

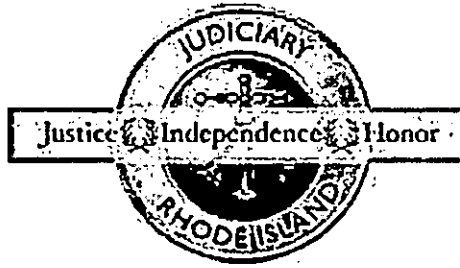
Defendant

American Honda Motor Co., Inc.
Home Depot U.S.A., Inc.

NELSON, STEPHEN DAVID
Retained
4012747200 x214(W)

DATE**EVENTS & ORDERS OF THE COURT**

06/29/2021 Closed-Non Trial-Unassigned-Removed to Federal Court
06/29/2021 Case Removed to US District Court
06/29/2021  Notice of Removal
Defendant, Home Depot U.S.A., Inc.'s Notice of Removal
06/18/2021  Entry of Appearance
Entry of Appearance (Stephen D. Nelson) on behalf of Home Depot U.S.A., Inc.
06/09/2021  Summons Proof of Service Filed
Summons with proof of service upon Home Depot
06/09/2021  Summons Proof of Service Filed
Summons with proof of service upon American Honda Motor Co.
06/03/2021  Summons
06/02/2021  Complaint Filed
Complaint



STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

CLERK'S CERTIFICATE AND TRANSMITTAL OF THE RECORD

Case Information

Case Caption: Kerri Neill vs. Home Depot et al
Federal Court Case No. 1:21-cv-00276 State Court Case No. KC-2021-0486

Record Information

Confidential: Yes ☐ No ☒ Description: _____
Sealed documents: Yes ☐ No ☒ Description: _____

Certification

I, Danielle Keegan, Clerk of the Rhode Island Superior Court for the County of
Kent do certify that the attached documents are all the documents
included in the record in the above referenced case.

Date: Jun/29/2021

Clerk:

/s/ Danielle Keegan

Prepared by:

/s/ Lindsay Zuercher



STATE OF RHODE ISLAND

SUPERIOR COURT

SUMMONS

Plaintiff Kerri Neill v. American Honda Motor Co., Inc. et al. Defendant	Civil Action File Number KC-2021-0486 Attorney for the Plaintiff or the Plaintiff Jeffrey D. Sowa Address of the Plaintiff's Attorney or the Plaintiff LAPLANTE SOWA GOLDMAN 78 KENWOOD STREET CRANSTON RI 02907
Noel Judicial Complex Kent County 222 Quaker Lane Warwick RI 02886 (401) 822-6900	Address of the Defendant 222 Jefferson Boulevard Suite 200 Warwick RI 02888 Corporation Service Company

TO THE DEFENDANT, Home Depot U.S.A., Inc.:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 6/3/2021.

/s/ Danielle Keegan
 Clerk

Witness the seal/watermark of the Superior Court

**STATE OF RHODE ISLAND****SUPERIOR COURT****Plaintiff**

Kerri Neill

v.

American Honda Motor Co., Inc. et al.

Defendant**Civil Action File Number**

KC-2021-0486

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Home Depot U.S.A., Inc., by delivering or leaving said papers in the following manner:

☐ With the Defendant personally.

☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person of suitable age and discretion _____

Address of dwelling house or usual place of abode _____

Age _____

Relationship to the Defendant _____

☐ With an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below. _____

☐ With a guardian or conservator of the Defendant.

Name of person and designation _____

☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.

☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.

Name of person and designation _____



STATE OF RHODE ISLAND

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

☒ By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent Corporation Service Company, Chris Bergner

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: 6/9/21 11:33 AM

Month Day Year

SERVICE FEE \$ 45.00

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

Robert J. K. Hoff #6070

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was _____ to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____



STATE OF RHODE ISLAND
SUPERIOR COURT
SUMMONS

Plaintiff Kerri Neill v. American Honda Motor Co., Inc. et al. Defendant	Civil Action File Number KC-2021-0486 Attorney for the Plaintiff or the Plaintiff Jeffrey D. Sowa Address of the Plaintiff's Attorney or the Plaintiff LAPLANTE SOWA GOLDMAN 78 KENWOOD STREET CRANSTON RI 02907
Noel Judicial Complex Kent County 222 Quaker Lane Warwick RI 02886 (401) 822-6900	Address of the Defendant 450 Veterans Memorial Parkway Suite 7A East Providence RI 02914 CT Corporation System

TO THE DEFENDANT, American Honda Motor Co., Inc.:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 6/3/2021.	/s/ Danielle Keegan Clerk
---	------------------------------

Witness the seal/watermark of the Superior Court

**STATE OF RHODE ISLAND****SUPERIOR COURT****Plaintiff**

Kerri Neill

v.

American Honda Motor Co., Inc. et al.

Defendant**Civil Action File Number**

KC-2021-0486

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, American Honda Motor Co., Inc., by delivering or leaving said papers in the following manner:

- ☐ With the Defendant personally.
- ☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
 Name of person of suitable age and discretion _____
 Address of dwelling house or usual place of abode: _____
 Age _____
 Relationship to the Defendant _____
- ☐ With an agent authorized by appointment or by law to receive service of process.
 Name of authorized agent _____
 If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

- ☐ With a guardian or conservator of the Defendant.
 Name of person and designation _____
- ☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.
- ☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
 Name of person and designation _____



STATE OF RHODE ISLAND

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

☒ By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent CT Corporation System Robert Ortiz

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: 6 / 9 / 21 11:49 A.M.

Month Day Year

SERVICE FEE \$ 45.00

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

Robert J. Kilduff #6070

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ ☐ personally known to the notary

or ☐ proved to the notary through satisfactory evidence of identification, which was

_____, to be the person who signed above in my presence,

and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____



STATE OF RHODE ISLAND
SUPERIOR COURT
SUMMONS

Plaintiff Kerri Neill v. American Honda Motor Co., Inc. et al. Defendant	Civil Action File Number KC-2021-0486 Attorney for the Plaintiff or the Plaintiff Jeffrey D. Sowa Address of the Plaintiff's Attorney or the Plaintiff LAPLANTE SOWA GOLDMAN 78 KENWOOD STREET CRANSTON RI 02907
Noel Judicial Complex Kent County 222 Quaker Lane Warwick RI 02886 (401) 822-6900	Address of the Defendant 222 Jefferson Boulevard Suite 200 Warwick RI 02888

TO THE DEFENDANT, Home Depot U.S.A., Inc.:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 6/3/2021.	/s/ Danielle Keegan Clerk
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Witness the seal/watermark of the Superior Court



STATE OF RHODE ISLAND
SUPERIOR COURT

Plaintiff

Kerri Neill

v.

American Honda Motor Co., Inc. et al.

Defendant

Civil Action File Number

KC-2021-0486

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Home Depot U.S.A., Inc., by delivering or leaving said papers in the following manner:

- ☐ With the Defendant personally.
- ☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
 Name of person of suitable age and discretion _____
 Address of dwelling house or usual place of abode _____
 Age _____
 Relationship to the Defendant _____
- ☐ With an agent authorized by appointment or by law to receive service of process.
 Name of authorized agent _____
 If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

- ☐ With a guardian or conservator of the Defendant.
 Name of person and designation _____
- ☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.
- ☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
 Name of person and designation _____



STATE OF RHODE ISLAND
SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: ____/____/____
Month Day Year

SERVICE FEE \$ _____

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____



STATE OF RHODE ISLAND
SUPERIOR COURT
SUMMONS

Plaintiff Kerri Neill v. American Honda Motor Co., Inc. et al. Defendant	Civil Action File Number KC-2021-0486 Attorney for the Plaintiff or the Plaintiff Jeffrey D. Sowa Address of the Plaintiff's Attorney or the Plaintiff LAPLANTE SOWA GOLDMAN 78 KENWOOD STREET CRANSTON RI 02907
Noel Judicial Complex Kent County 222 Quaker Lane Warwick RI 02886 (401) 822-6900	Address of the Defendant 450 Veterans Memorial Parkway Suite 7A East Providence RI 02914

TO THE DEFENDANT, American Honda Motor Co., Inc.:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 6/3/2021.	/s/ Danielle Keegan Clerk
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Witness the seal/watermark of the Superior Court



STATE OF RHODE ISLAND
SUPERIOR COURT

Plaintiff

Kerri Neill

v.

American Honda Motor Co., Inc. et al.

Defendant

Civil Action File Number

KC-2021-0486

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, American Honda Motor Co., Inc., by delivering or leaving said papers in the following manner:

- ☐ With the Defendant personally.
- ☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
 Name of person of suitable age and discretion _____
 Address of dwelling house or usual place of abode _____
 Age _____
 Relationship to the Defendant _____
- ☐ With an agent authorized by appointment or by law to receive service of process.
 Name of authorized agent _____
 If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

- ☐ With a guardian or conservator of the Defendant.
 Name of person and designation _____
- ☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.
- ☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
 Name of person and designation _____



STATE OF RHODE ISLAND
SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

☐ I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: ____/____/____
Month Day Year

SERVICE FEE \$ _____

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____

STATE OF RHODE ISLAND
KENT, SC.

SUPERIOR COURT

KERRI NEILL,
Plaintiff,

v.

AMERICAN HONDA MOTOR CO., INC.
and HOME DEPOT U.S.A., INC.,
Defendants.

:
:
:
:
:
:
:
:

C.A. No. KC

Complaint

Parties and Jurisdiction

1. Plaintiff, Kerri Neill (“Neill”), was at all times material hereto a resident of the City of Warwick, County of Kent, State of Rhode Island.

2. Upon information, Defendant American Honda Motor Co., Inc. (“Honda”), is a foreign corporation, organized under the laws of California and licensed to do business in the State of Rhode Island, with its principal place of business located in the State of California.

3. Upon information and belief, at all times material hereto, Defendant Home Depot U.S.A., Inc. (“Home Depot”) was a Delaware entity with a principal place of business located in the State of Georgia.

4. Honda and Home Depot have sufficient minimum contacts with the State of Rhode Island to be subject to the jurisdiction of this Honorable Court.

5. The amount in controversy and nature of the controversy are sufficient to establish the jurisdiction of this Honorable Court.

Facts

6. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

7. At all times material hereto, Ms. Neill owned a Honda HRR216VKA lawnmower, which was manufactured by Honda (the “Lawnmower”).

8. Ms. Neill purchased the Lawnmower from Home Depot located in North Kingstown, Rhode Island.

9. On or about June 21, 2020, Ms. Neill was removing the Lawnmower (while in its properly folded position) from its stored location in her garage when the handle retracted suddenly severing a portion of Ms. Neill’s left index finger.

10. The mechanics of the Lawnmower handle were inherently dangerous and unsafe.

11. The Owner’s Manual for the Lawnmower contains no warnings or instructions regarding such risks or hazards.

12. The Lawnmower itself contains no warnings regarding risk of such injury.

13. As a direct and proximate result of the defective condition of the Lawnmower and Honda’s failure to warn, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT I – Strict Product Liability
(Neill vs. Honda and Home Depot)

13. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

14. Upon information and belief, Honda designed, manufactured, assembled, inspected, tested, distributed and sold the Lawnmower so as to render it defective and unsafe for its intended use.

15. Honda’s design, manufacturing, assembling, inspection, distribution and sale of the Lawnmower caused the defective and unsafe condition as alleged herein.

16. Home Depot distributed, merchandised, and sold the Lawnmower.

17. When Ms. Neill sustained the damages described herein, the Lawnmower was in a defective condition and unreasonably dangerous to a user or consumer in that it was unfit, unsafe, not usable for the purpose for which it was intended, dangerous and defective in nature, design, and materials and defective in manufacture.

18. Such conditions were not observable by Ms. Neill who relied on the duties of Honda and Home Depot, to deliver the Lawnmower at the time of sale in a condition that was fit for the use and purpose intended and in a safe and operable condition.

19. Honda and Home Depot's breach of its duty of care caused the defective condition of the Lawnmower and is the proximate cause of Ms. Neill's severe and permanent injuries and disfigurement.

COUNT II – Breach of Implied Warranty of Fitness and/or Merchantability
(Neill vs. Honda)

20. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

21. The Lawnmower manufactured by Honda and sold to Ms. Neill by Honda, was not of merchantable quality. Rather, it was unfit, unsafe, and not usable for the purpose for which it was intended. Such condition constituted a breach of Honda's implied warranty of merchantability and/or fitness, in that the Lawnmower was not fit for the purpose for which it was designed, namely, to be safely stored and moved with its handle properly folded.

22. When purchasing and operating the Lawnmower, Ms. Neill relied upon Honda's skill and judgment and its implied warranty of fitness for the purpose for which she purchased the Lawnmower.

23. The Lawnmower was not fit for its intended purpose and use, and as a result of Honda's breach of its warranty of fitness of the Lawnmower, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT III – Negligence
(Neill vs. Honda)

24. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

25. Honda negligently designed and/or manufactured and/or inspected and/or marketed and/or sold the Lawnmower and negligently placed it into the channels of trade when it knew, or with a reasonable degree of care, should have known that the Lawnmower was dangerous and defective in nature, design and materials, and was in a dangerous and/or defective condition, in a manner in which Honda should reasonably have foreseen would come into use by persons such as Ms. Neill, who was unaware of the dangerous and defective condition, and Honda's failure to use reasonable care to prevent such damages to such persons including Ms. Neill.

26. Honda failed to warn Ms. Neill and other consumers of the potential for the Lawnmower handle to close in a scissor-like manner with the risk of severing fingers before and after offering the same for sale. Such dangerous condition was reasonably foreseeable and knowable to Honda at the time of marketing.

27. Honda's breach of its duties of care in the design, manufacture, inspection and distribution of the Lawnmower, and failure to warn, caused Ms. Neill to sustain severe and permanent injuries and disfigurement.

COUNT IV – Breach of Implied Warranty of Fitness and/or Merchantability
(Neill vs. Home Depot)

28. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

29. Home Depot distributed, merchandised, and sold the Lawnmower.

30. The Lawnmower distributed, merchandised, and sold by Home Depot to Ms. Neill, was not of merchantable quality. Rather, it was unfit, unsafe, and not usable for the purpose for which it was intended. Such condition constituted a breach of Home Depot's implied warranty of merchantability and/or fitness, in that the Lawnmower was not fit for the purpose for which it was designed, namely, to be safely stored and moved with its handle properly folded.

31. When purchasing and operating the Lawnmower, Ms. Neill relied upon Home Depot's skill and judgment and its implied warranty of fitness for the purpose for which she purchased the Lawnmower.

32. The Lawnmower was not fit for its intended purpose and use, and as a result of Home Depot's breach of its warranty of fitness of the Lawnmower, Ms. Neill sustained severe and permanent injuries and disfigurement.

COUNT V – Negligence
(Neill vs. Home Depot)

33. Ms. Neill repeats, re-alleges, and incorporates by reference each and every allegation herein pleaded.

34. Home Depot negligently marketed and/or sold the Lawnmower and negligently placed it into the channels of trade when it knew, or with a reasonable degree of care, should have known that the Lawnmower was dangerous and defective in nature, design and materials, and was in a dangerous and/or defective condition, in a manner in which Home Depot should reasonably have foreseen would come into use by persons such as Ms. Neill, who was unaware of the dangerous and defective condition, and Home Depot's failure to use reasonable care to prevent such damages to such persons including Ms. Neill.

35. Home Depot failed to warn Ms. Neill and other consumers of the potential for the Lawnmower handle to close in a scissor-like manner with the risk of severing fingers before and after offering the Lawnmower for sale. Such dangerous condition was reasonably foreseeable and knowable to Home Depot at the time of marketing and sale.

36. Home Depot's breach of its duties of care in the marketing, distribution, and sale of the Lawnmower, and failure to warn, caused Ms. Neill to sustain severe and permanent injuries and disfigurement.

WHEREFORE, Plaintiff, Kerri Neill, respectfully requests this Honorable Court:

1. Enter judgment in favor of Plaintiff and against Defendant on each and every count contained herein;
2. Award damages to Plaintiff for an amount necessary to invoke the jurisdiction of this Honorable Court;
3. Award Plaintiff interest, costs, expenses, and reasonable attorneys' fees; and
4. Award such other relief, as this Honorable Court deems just and appropriate.

JURY DEMAND

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY AS TO ALL TRIABLE
ISSUES OF RIGHT.**

Plaintiff,
Kerri Neill,
By her Attorney,

/s/ Jeffrey D. Sowa
Jeffrey D. Sowa, Esq./#5764
Heather M. Spellman, Esq./#6461
LaPlante Sowa Goldman
78 Kenwood Street
Cranston, RI 02907
TEL: (401) 273-0200
FAX: (401) 273-0250
EMAIL: jsowa@lsglaw.com
hspellman@lsglaw.com

Dated: June 2, 2021